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EXHIBIT D.

Court of Appeal, First Appellate District, Div. 2 - No. A119549
S159353

IN THE SUPREME COURT OF CALIFORNIA

En Banc

DUANE A. SINGLETON, Petitioner,

v.

SUPERIOR COURT OF ALAMEDA COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.

The petition for review is denied.

George, C.J., was absent and did not participate.

**SUPREME COURT
FILED**

JAN 30 2008

Frederick K. Ohlrich Clerk

Deputy

BAXTER

Acting Chief Justice

1

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9

EXHIBIT 10.)

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1 IN THE CALIFORNIA
2 SUPREME COURT
3
4
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6
7 DUANE A. SINGLETON
8 Petitioner,
9

10 V.

CASE No.:

11
12 THE SUPERIOR COURT A118808
13 OF ALA. CO.

14 Respondent; (Ala. Co.
15 Supor. Ct.
16 THE PEOPLE OF THE ST. NO. 519203)
17 OF CALIF.
18 Real Party in Interest.
19
20
21
22
23
24
25
26
27

28 APP.

2 of 2.

DEAR CHIEF
JUSTICES, I DO
HEREBY RESUBMIT
EACH OF MY PREVIOUSLY
ASSERTED CONVENTIONS.

- WHILE CITING
U.S. V. DETRICH 940
F.2d 37 CA. 2. N.Y.
1991

"PLEADINGS OF PRO
SE INMATE ARE TO
BE CONSTRUED LIBERALLY.

ALBERT J. NOW
ADAMANTLY REQUEST
THIS HONORABLE COURT
TO EXTEND UNTO ME
THE REQUESTED REDRESS.

AUG. 30, 2007

Mc Duane A. [Signature]

IN PRO SE

APP.

2012.

VERIFICATION

I, D.A. SINGLETON, am
the petitioner in the
above-entitled proceedings.
I HAVE REVIEWED THE
HEREIN ENTITLED PLEADINGS
FOR WHICH I KNOW TO
BE TRUE & CORRECT.

I, declare under penalty
of perjury that the
forgoing is true and
correct. This declaration was
executed on AUG. 30, 2007
at Dublin, California.

McDuan A. Singleton

VERIF
APP. S.Ct.

2 of 1.

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

DUANE A. SINGLETON,

Petitioner,

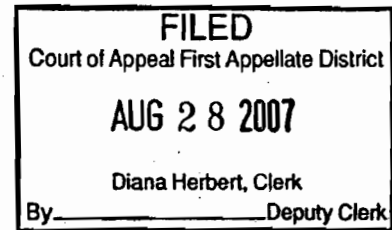
v.

THE SUPERIOR COURT OF ALAMEDA
COUNTY,

Respondent;

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Real Party in Interest.



A118808

(Alameda County
Super. Ct. No. 519203)

BY THE COURT:

The petition for writ of error coram nobis is denied.

Dated: AUG 28 2007

 HAERLE, J. Acting P.J.

1 IN THE COURT OF APPEAL OF
2 THE STATE OF CALIFORNIA,
3 FIRST APPELLATE
4 DISTRICT [DIVERSION
5 TWO]

FILED

AUG 21 2007

Court of Appeal - First App. Dist.
By DIANA HERBERT

6 Petition for writ
7 of CORAM NOBIS

"STAY REQUESTED"

10 D.A. SINGLETON, SUPERIOR CT.
11 Appellant. No. 519203

12 VS. DIVISION OF
13 PETITION
14 OF
15 CORAM NOBIS

16 SUPERIOR CT. OF
17 THE CO., OF CALIF.

A118808

18
19
20
21 "STAY REQUESTED"

22 GERMANE COVER

23 SHEET - - -

24
25
26
27
28
29
30 1 & 1 pg.

2 IN THE COURT OF APPEAL OF
2 THE STATE OF CALIFORNIA
3 FIRST APPELLATE
4 DISTRICT [DRUGS] NON
5 TWO]

6
7 Petition for writ
8 of CORAM NOBIS

9
10
11 D.A. SPANGLER, No.
12 Appellant. SUPERIOR CT.
13 No. 519203
14 VS. PETITION
15 FOR WRIT OF
16 CORAM
17 NOBIS
18 SUPERIOR CT. OF
19 THE CO. OF A.C.
20 Respondent.

21
22
23 DUANE A. SPANGLER
24 PETITIONER & DEFENDANT
25 (SAME) IN THE

26
27 PET.
28 WRIT ERROR. 1 & 708.

1 ABOVE-CAPTIONED CASE,
2 ALLEGES THAT:

3
4 1. HE IS THE DEFENDANT
5 IN THE ACTION ENTITLED
6 PEOPLE OF THE STATE OF
7 CALIFORNIA VS.
8 DUANE A. SINGLETON
9 CRIMINAL ACTION
10 # 519203.

11
12 2. THE RESPONDENT IS
13 THE SUPERIOR COURT OF
14 THE COUNTY OF ALAMEDA.

15
16 3. THE RESPONDENT COURT
17 HAS A CLEAR PRESENT
18 OBLIGATION TO
19 AFFORD WITNESS TO
20 HEARING VIA AN
21 ORDER OF PROTECTION
22 OF CERTAIN NOTES AND
23 THEREBY, NOT SUBJECT

24
25
26
27 PET
28 WRIT ERROR 2 of 708.

1 DEFENDANT / PETITIONER
2 UNTO THE HONORABLE
3 ASSOCIATED WITH AN
4 MANIFESTLY MARCOUS
5 PERSECUTION.

6
7 PETITIONER / DEFENDANT
8 AS A PARTY BENEFICIARY
9 INTERESTED IN THE
10 SURVIVANCE OF THE WART
11 BECAUSE THE AFORESAID
12 FACTS ENTITLED WITHIN.
13 NUMBER THREE (3)
14 ABOVE SHALL
15 UNEQUIVOCALLY PROVE
16 THAT MYSELF TOO
17 INCLUDING THE GENERAL
18 PUBLIC AT LARGE SHALL
19 NEED THE HONORABLE
20 COURT TO ISSUE THE
21 WART IN MARITIME
22 THE ORGANIZATION
23 SANCTUARY, &
24
25
26
27
28

PET.

WARRANT 3 of 7/58.

1 TRUSTWORTHINESS OF
2 OUR JUDICIAL SYSTEM
3 AND ANY USABLE HOUSE
4 OF SANC TUARY
5 FORGOTTEN UPON
6 COURT.

7 S. PETER HAS NO PLAN,
8 REEDED & HOED QUANTIE,
9 REEDED OF THE OPPOSITE
10 COURSE OF THE OTHER
11 THAN THE RELIEF
12 SOUGHT IN THIS
13 PETERSON, BECAUSE
14 WITHOUT AN FARR
15 WEARING BEING
16 EXTENDED UNTO
17 PETERSON DEFENDANT
18 SHALL AND OUTSTIED
19 BE LEGAL SUB REATED
20 UNTO FURTHER MARCOUR
21 ACTS FOR THE
22 ABSOLUTE FURTHERANCE
23
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PET
WAKI CAPPA 4 of 7 pgs.

4 OF ALAMEDA COUNTY
2 ILLEGALLY PERSECUTING
3 ME, UNDER THE GUISE
4 OF THE LAW.

6
7 WHEREFORE PETITIONER
8 REQUESTS:

10
11 1. THAT THE COURT
12 ISSUE THE WRIT OF
13 HABEAS CORPUS
14 COMMANDING RESPONDANT
15 COURT TO PROMPTLY
16 OBTAIN ALL COURT
17 PROCEEDINGS OTHER
18 THAN TO FREE ME
19 FROM CUSTODY VIA
20 MY OWN RECOGNIZANCE
21 OR ALLOW ME TO BACK
22 IN THE SUM OF \$1000.00
23 ONE THOUSAND DOLLARS.

25
26
27 PET.
28 WALT BRADY 5/7/08

1 AND TO EXTEND TO
 2 ONE OF ENABLER
 3 CONSTITUTIONAL RIGHTS
 4 UNTO ANOTHER
 5 APPEARING UPON THE
 6 PERMANENT RECORD
 7 LEGAL ATTACHED
 8 CORAM NOBIS - OR
 9 CORAM VOBIS - OR
 10 NAME OF COURT
 11 U. S. SHAPMAN (Cito to
 12 62 Cal. 2d 226, 397 P.2d
 13 993) 81 crim. law
 14 Constitutional require -
 15 ment for appointing
 16 & ESC. for indigent
 17 defendant to extend to
 18 Coram Nobis proceed -
 19 in SS.

20
 21 [14] crim. law
 22 On co indigent position
 23 has stated facts sufficient
 24
 25
 26

27 PET
 28 WORTH EPPOR 6 of 7 PR

1 To satisfy court that
2 Noarring on Common Nobs
3 application is required,
4 the claim can be
5 considered on the basis
6 of the evidence, & no
7 is sufficient to
8 support the award of counsel
9 fees. It is the duty of counsel
10 to file an appeal if
11 the decision is deemed
12 unjust to limitations
13 applicable to damages
14 awards. Also, the
15 claim is not under-
16 mined by the fact that
17 the UCA is not under-
18 mined. Thus, I do
19 hereby now adamantly
20 REASSERT EACH CONTENT-
21 CAN ASSERTED WITHIN
22 THE BODY OF MY WRIT.

23 AUG. 3rd, 2007

24
25 Mr. James F. [Signature]
26 IN PRO [Signature]
27
28

WRIT ERROR 7/27

4 STATEMENT OF GERMANE
2 & MATERIAL FACTS:
3
4

5 MOREOVER, FOR THE
6 GERMANE JUDGE TO
7 PREVIOUSLY ASSESS
8 ILLEGAL AS INTENTLY
9 JUDGE MALACOUS (HAD
10 FAREING MALACOUS (HAD
11 ONE OF MY CONTOUSE
12 ZONAL OF MY CONTOUSE
13 ZONAL OF MY CONTOUSE
14 ZONAL OF MY CONTOUSE
15 REACHING.
16

17 SECONDLY, AS FAR
18 AS THE JUDGE
19 OUTING THE JUDGE
20 EQUALLY AS INTENT
21 THE JUDGE AS INTENT
22 OF MY CONTOUSE
23 WHOLELY BASED UPON
24
25
26
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28 S.O.F.F.

2 of 2.

1 AN UNSUPPORTED
2 SUPPOSITION
3 AND TOO
4 CUDRNG THE WATION
5 DUNIA OF MORE GERMAN
6 OF BACI REQUEST.

S. F. F. S

2/2

1 SUPERIOR CT. OF THE ST. OF
 2 CALIF. FOR THE CONDORSED
 3 OF ALAMEDA FILED
 4
 5

ALAMEDA COUNTY

JUN 15 2007

CLERK OF THE SUPERIOR COURT
 BY

6 PEOPLE OF THE STATE
 7 OF CALIF.
 8 Plaintiff,

9
 10
 11 V.

12
 13 D. A. SINGLETON,
 14 Defendant.

Case # 519203
 VIA NOTICE OF
 APPEAL AS
 TO PETITION
 FOR WRIT
 OF HABEAS
 CORPUS
 15
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TO THE DISTRICT ATTORNEY
 OF ALAMEDA COUNTY 2700
 HAS REPRESENTATIVE:

PLEASE TAKE NOTICE
 THAT PETITIONER IS
 HEREAFTER SEEKING A FAIR
 REVIEW OF SUPERIOR COURT'S
 DECISION - ISSUES NOW

1 BEING PASSED ARE
2 SAME AS THOSE PASSED
3 BELOW.

4 - ALBERT ONE CONSIDER-
5 TION WHICH
6 DETERMINE WHETHER
7 DEPENDS UPON WHETHER
8 COULD BE UNNECESSARY
9 TO RELEASE

10 THE COULD BE UNNECESSARY
11 TO RELEASE
12 THE COULD BE UNNECESSARY
13 TO RELEASE

14 THE COULD BE UNNECESSARY
15 TO RELEASE
16 THE COULD BE UNNECESSARY
17 TO RELEASE

18 THE COULD BE UNNECESSARY
19 TO RELEASE
20 THE COULD BE UNNECESSARY
21 TO RELEASE

22 THE COULD BE UNNECESSARY
23 TO RELEASE
24 THE COULD BE UNNECESSARY
25 TO RELEASE

26 THE COULD BE UNNECESSARY
27 TO RELEASE
28 THE COULD BE UNNECESSARY
29 TO RELEASE

30 THE COULD BE UNNECESSARY
31 TO RELEASE
32 THE COULD BE UNNECESSARY
33 TO RELEASE

Handwritten notes on lined paper, mostly illegible due to extreme overlap and bleed-through from the reverse side. Legible fragments include:

- 3d 244, 250, #27 Cal.
- (1970) 32 Cal. Apple U
- 521-522 Pop. 3d
- UNNECESSARY EMPLOY
- FOLLOW-UP
- See (1980)
- Cal. 289, 611
- Don't 502 U.S. 2d
- Youngblood v. Gates
- Cal. App. 3d
- DEATH PENALTY
- WARRANTED ON
- CAUSE

1 TO AND INCLUDING THE
2 OF THE
3 OF THE
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DEAR MR. FREY
I AM WRITING YOU
TO REQUEST THAT
YOU PLEASE REVIEW
THE MATTER AND
LET ME KNOW THE
RESULT. I AM
VERY APPRECIATIVE
OF YOUR TIME AND
EFFORTS. I AM
VERY SURE THAT
YOU WILL BE ABLE
TO RESOLVE THIS
MATTER TO MY
SATISFACTION.
THANK YOU VERY
MUCH FOR YOUR
HELP AND SUPPORT.
Sincerely,
Duane H. Frey

JUNE 1, 2007

Mr. Duane H. Frey
IN PROSE

Mr. Duane H. Frey
Sincerely,

VE REFLECTION

1920-3. ~~RECEIVED~~ ~~OFFICE~~ ~~NOV 15 1920~~ ~~FOR~~

I declare under penalty
 of perjury that the
 information is true and
 correct. This Verifica-
 tion was executed on
 June 4, 2007, at Dublin
 California.

Mr. Duane H. Lytle
IN PRO SE

11/21/2011

1

VERIFICATION

2

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I, DUANE A. SINGLETON,
AM, THE PETITIONER IN
THE ABOVE-ENTITLED
PROCEEDING. I HAVE
READ THE FOREGOING
STATEMENT AND KNOW
ITS CONTENTS AND KNOW
THE CONTENTS ARE TRUE
TO MY KNOWLEDGE,
EXCEPT WHERE SHOWN
OTHERWISE. WITNESS
MY HAND AND SEAL ON
THIS 15th DAY OF MAY, 2008.
I HAVE SIGNED AND
SUBSCRIBED TO THE
STATEMENT ON AN AFFIRM-
ATION AND BE AWARE
THESE ARE THE FACTS
OF MY CASE AND I AM
NOT AWARE OF ANY
OTHER FACTS THAT
MAY BE MATERIAL TO
THE CASE.

25

26

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VERIF

APPAL/C.D.

1 of 2

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PETITION FOR WRIT
OF HABEAS CORPUS
IN AN OPEN COURT
FILED
ON JUNE
15, 2007.

It declares under penalty
of perjury that the
contents is true and
correct. This
Declaration was
executed on Aug 3rd,
2007, at Dublin, CA.

Mr. Dune H. J. J. J.

IN PROSE

USPAC
F. C. N. 202.

DECLARATION

I, DUANE A. SINGLETON
DO HEREBY DECLARE THAT
THE NAME OF THE
PERSON ON EMPLOYED
OF THE COMPANY
C/O. ON OF
JULY 1 2007
LEGAL COUNSEL IN
DEPT. OF -
FOR THE REQUESTED
AND DATE OF PERMANENT
THE NAME OF THE
TRANSACTED BE
GIVEN TO BE AND
WE CAN BE EVALUATING
MAINLY - OR NOT
OPENED - OR NOT
UPON THE MATTER,
SUPPORT AND COOPER,
(NAME) OF THE
STAFF

DEC. 4/08

TRANS. M.O. 10/3,

1 promptly forward
2 same to all court.
3 I thought, that
4 the court should
5 have been able to
6 see what was going
7 on in the country
8 and see what was
9 going on in the
10 country. I was
11 not sure if I was
12 sure if I was
13 sure if I was
14 sure if I was
15 sure if I was
16 sure if I was
17 sure if I was
18 sure if I was
19 sure if I was
20 sure if I was
21 sure if I was
22 sure if I was
23 sure if I was
24 sure if I was

25

26

27 Decl. UCA

28 TRANS/M.O. 2003.

I HEREBY DECLARE UNDER
 PENALTY OF PERJURY
 THAT THE FOREGOING
 INFORMATION IS TRUE
 AND CORRECT
 EXCEPT AS NOTED
 OTHERWISE
 DATED: 2007
 UTBLIN; CH.

Mr. Duane A. Fry ~~John~~

IN PRO SE

26
27 DEC 1964
28 JAN 1965 383

1 SUPERIOR COURT OF CALIF.
2 COUNTY OF ALAMEDA

3 ENDORSED
4 FILED
ALAMEDA COUNTY

5 APR 23 2007

6 CLERK OF THE SUPERIOR COURT

By B. Smith Deputy

7 PEOPLE OF THE STATE
8 OF CALIF.
9 Plaintiff,

10 VS.

11
12 D.A. SINGLETON,
13 defendant.

14 case # 519203
15 PETITION FOR
16 WRIT OF
17 HABEAS CORPUS

18
19 To: The District Attorney,
20 County of Alameda, and
21 District Attorney: Deputy.

22
23 NOTICE IS HEREBY GIVEN
24 that on APR. 23 2007, or
25 as soon thereafter as

the matter may be heard, in
Department of the
above-entitled court,
dominant D.A. Singleton,
will post for cocaine
no is relief for cocaine
the judgment to vacate
again of him on Jun 2 2006,
in the Superior Court of
the State of Calif. County
of Alameda.

and D.A. Singleton, Petitioner
above-entitled is the
above-captioned case --
was argued that the
pursuant to an order of
MAY 31 2006
Pond is that he violated
the State of California
Petitioner, Calif. 11350. HCS, OF
possession of cocaine.
Base did unlawfully
On Jun 2 2006, pursuant to

1 that information, the court
2 pronounced a judgment of
3 conviction, via Proposition
4 thirty six, and thereafter,
5 placed petitioner on
6 three years probation.
7 Petitioner is currently
8 incarcerated at Santa
9 Rita County Jail under
10 this judgment. Under
11 too an probation incident
12 revocation. On
13 MAR. 13 2007, petitioner
14 disavowed over wholly
15 conclusive evidence to
16 show that said
17 judgment was obtained
18 via the D.A.'s actions, & FRAUDULENT
19 MISREPRESENTATION by
20 PETITIONERS' former
21 court appointed counsel.
22 Whom I told I'm not guilty.

1 INsofar as upon my initial
2 contact with the germane
3 counsel one GARY L. SHERER
4 I adamantly requested
5 him to file a motion
6 to dismiss
7 based on the fact
8 that I'd stayed in
9 jail for seventy-two
10 hours without getting
11 served an information
12 and thus released. Said
13 I'd tricked me
14 into believing that
15 I had absolutely no
16 legal defense(s) via
17 said scenario -
18 thereby, having me
19 illegally subjecting
20
21
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1 MYSELF TOO SUSTAINED AN
2 FELONY CONVICTION THAT
3 BY NO MEANS AM I
4 GUILTY THEREOF.
5 SADD PETTAFOGGER
6 MERELY TOOK ADVANTAGE
7 OF MY BEING UNDER
8 DURESS TO GET BACK
9 HOME TO MY UNSTABLE
10 FIANCE - INTIMATE HE
11 KNEW THAT I AM
12 INDIGENT AND COULD
13 NOT MAKE BAIL - THIS
14 I, WAS MALICIOUSLY
15 SUBJECTED TO BEING
16 ILLEGALLY CONVICTED VIA
17 AN CRIME WHICH I
18 DID NOT COMMIT.

1 VIA DUE DILIGENCE
2 PURROUNDING MY PRESENT
3 ~~IN~~IGATION REGARD-
4 ING CASE # 527039
5 I HAVE NOW BECOME
6 AWARE OF THE JUSTIFICAT-
7 ION FOR THIS WRIT
8 OF CORAM NOBIS. The
9 discovery of said
10 fraudulent misrep-
11 sentation shows the
12 existence of
13 viable & valid
14 AFFIRMATIVE DEFENSE.
15 NAMELY, multiple due
16 process violations which
17 WAS NOT ADDRESSED AT
18 THE TIME OF TRIAL / PRE

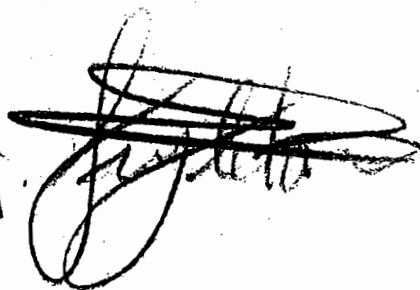
1 TRIAL. NONE OF THE
2 SUBSTANTIAL FACTS
3 RELATING UNTO THE
4 AFORESTATED FRAUDU-
5 ENT MISREPRESENTAT-
6 ION APPEAR ON THE
7 RECORD AND THE TRIAL
8 COURT WAS NOT AWARE
9 OF THEM WHEN THE
10 JUDGEMENT WAS
11 ENTERED. MY SWORN
12 TESTIMONY CAN BE
13 PRODUCED IF REQUIRED.
14
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22
23 No appeal was taken from
24 the judgment. the time for
25 appeal has passed, and
26 petitioner has no
27
28

1 other adequate remedy
2 available except this
3 petition for writ of
4 coram nobis.
5
6
7

8
9 WHEREFORE, petitioner
10 requests that a writ of
11 coram nobis be issued
12 directing the judgment
13 and sentence in case
14 Number 519203
15 be
16 set aside.
17
18
19

20
21 Dated, MAR. 21 2007
22
23

24
25 Me Duane A. 
26
27
28

VERIFICATION

I, D.A. SANGATEON, am
the petitioner in the
above-entitled proceeding.
I have read the petition
and know its contents.

The contents are true
to my knowledge except
as to those matters
which are alleged on
information and
belief. I believe
those matters alleged
on information and
belief to be true.

41-100-21

1 ALBERT, THE D.A.,
2 IMPROPER ACTION VIA
3 NOT ARRANGING ME
4 WITHIN SEVENTY TWO
5 HOURS, RELEASING
6 ME, AND THEREAFTER
7 PLACING AN WARRANT
8 OUT FOR MY ARREST
9 CONSTITUTED THE
10 GERMANE PREJUDICE.
11 SEE [unclear] WORKS (1966)
12 24 Cal. 2d 866, 51 Cal. Rptr.
13 917, 415 P. 2d 805; &
14 People v. [unclear] (1965)
15 22 Cal. App. 2d 694, 35 Cal.
16 Rptr. 293; & People v. Gilbert
17 (1944) 25 Cal. 2d 422, 154 P. 2d 657.

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1
2
3 I declare under penalty
4 of perjury that the
5 foregoing is true and
6 correct. This declarat-
7 ion was executed on
8 MAR. 13 2007, at
9 Dublin, California.
10
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22 Mr Duane A. Singleton
23
24
25 DUANE A. SINGLETON
26
27
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POWERS & AUTHORITIES

An allegation in a petition for coram nobis that defense counsel improperly induced the petitioner to enter a plea for a state absent for a state of state an allegation of state involvement in the Nunez (1965) 62 Cal. 2d 234, 42 Cal. Rptr. 6, 397 P. 2d 998; People v. Jolly (1966) 242 Cal. App. 2d 132, 51 Cal. Rptr. 171 - Action on advice of public defender is

P & A's

1 equivalent to action
2 based on advice of private
3 counsel, and defendant
4 allegation in a petition
5 for writ of habeas corpus that
6 the public defender
7 improperly induced
8 him to enter a guilty
9 plea did not state a
10 ground for relief ab-
11 sent an allegation
12 that defendant was
13 prejudiced by improper
14 action of state
15 officials - 2n Re Watkins
16 (1966) 64 Cal. 2d 866, 51 Cal.
17 Rptr. 917, 415 P. 2d 805
18
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P&A's

1 A specific claim of being
2 forced or coerced
3 into entering a plea
4 of guilty is not proper-
5 ly raised in a coram
6 nobis proceeding un-
7 less it appears that
8 the prosecution
9 attorney or other
10 prosecutor was a
11 party official
12 force or fraud to the
13 People v. Quisley (1964)
14 222 Cal. App. 2d 694
15 35 Cal. Rptr. 393
16 However, if the
17
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PEA'S

1 representation of
2 defense counsel (pre-
3 sent a purported
4 commitment by a
5 responsible state
6 official that, if
7 actually made, would
8 vitiate the plea and
9 the "acts" of state-
10 officers of the state
11 substantially
12 apparently
13 to the representation
14 of the exclusion
15 of his or her own
16
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pen's

1 free will and judgment.
2
3 The operation of this
4 rule is not dependent
5 on actual participat-
6 ion by the State,
7 directly or indirectly,
8 in any agreement
9 to enter a plea, the
10 make apparent
11 cooperation by
12 act or statement
13 through innocent.
14
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Q&A:

5.1

1 sufficient to vacate
2 the plea - People v.
3 Gilboff (1944) 25 Cal.
4 2d 422, 154 P.2d 657.
5
6
7
8

9 THE PROOFS SHALL
10 BE DRAWN FROM
11 THE MEANS USED
12 FOR CONCEALMENT.
13
14
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18

19 WOE UNTO THOSE
20 WHOSE IN DEEDS
21 HAVE BECOME FAR
22 SEEMING.
23
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P&A's

1 The petition must be
2 filed as soon after
3 judgment as the
4 previously unknown
5 fact is discovered.
6
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9
10
11 People v. Melton (1963) 219
12 Cal. App. 2d 124, 126-127,
13 37 Cal. Rptr. 660, over-
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PEA's

1 An unnecessary delay in
2 taking a defendant before
3 a magistrate which is in
4 violation of the Perdue
5 requirement is illegal.
6 The fact that the
7 delay is not unusual or
8 that it makes the work
9 of the police or the
10 prosecution easier does
11 not justify an unnecessary
12 delay. The "48-hour" rule
13 simply places an outer
14 limit on what may be
15 deemed a necessary
16 delay in arraignment: an
17 unnecessary delay is an
18 impermissible, even if
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P&A's

8.1

1 It is the prosecuting attorney's
2 duty to see that the defendant
3 is afforded a fair trial. See/
4 People v. Anthony, 185 Cal. 152, 196 P.
5 47 (1921) (disapproved of on other
6 grounds by, People v. Lucas, 16 Cal.
7 2d 178, 105 P. 2d 102, 130 A.L.R.
8 1485 (1940); People v. Burrill, 44
9 Cal. 2d 16, 279 P. 2d 744 (1955).

10 The prosecutor, owing to the
11 defendant a duty of fairness
12 as solemn as the obligation
13 he or she owes to the state to
14 perform his or her official
15 duties. See People v. Tokum, 418
16 Cal. 437, 50 P. 686 (1897); People v.
17 Huff, 167 Cal. 266, 139 P. 178
18 (1914). A prosecuting officer is
19 the representative not of an
20 ordinarily party to a controversy,
21 but of a sovereignty whose
22 obligation to govern impartially
23 is as compelling as its obligation
24 to govern at all, and whose
25 interest in a criminal prosecution
26 is not that it shall win a case
27 but that justice shall be done.
28

1 SEE People v. Lyons, 47 Cal. 2d
 2 311, 303 P. 2d 329 (1956);
 3 People v. Hill, 19 Cal. 4th 800,
 4 72 Cal. Rptr. 2d 656, 925 P.
 5 2d 673 (1998). Some
 6 allowance must be made for
 7 the fear that is the natural
 8 result of a prosecution, but
 9 the prosecutor should
 10 remember that it is not
 11 his or her sole duty to convict,
 12 and that to use his or her
 13 official position to obtain
 14 a conviction by illegal means is
 15 as unfair as to come
 16 into his or her office and
 17 counting in to distrust. See
 18 People v. ~~Chuk~~ 78 Cal. 317,
 19 204 P. 719 (1929); People v. Hill,
 20 17 Cal. 4th 800, 72 Cal. Rptr. 2d
 21 656, 952 P. 2d 673 (1998);
 22 People v. Herpin, 20 Cal. App.
 23 4th 1066, 25 Cal. Rptr. 2d
 24 213 (2d Dist. 1993). Thus, a
 25 prosecutor is held to a stand-
 26 ard higher than that in-
 27 posed on other attorneys.
 28

1 See People v. Hill, 17 Cal. 4th
2 800, 72 Cal. App. 2d 656,
3 952 P. 2d 673 (1998).
4 People v. Vienne, 142 Cal. App.
5 2d 1122, 297 P. 2d 1027
6 (3d Dist. 1956). We or she
7 must be as solicitous to
8 protect the defendant's
9 rights of life and liberty
10 as much as the judge presiding
11 at the trial. See People
12 v. Fong Sing, 38 Cal. App. 253,
13 175 P. 944 (3d Dist. 1918).
14 and should not use the
15 powers vested in him or
16 her as an instrument of
17 persecution. See People
18 v. Hill, 25 Cal. App. 342,
19 143 P. 803 (3d Dist. 1914).
20
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ENDORSED
FILED
ALAMEDA COUNTY

MAY 18 2007

CLERK OF THE SUPERIOR COURT
By F. B. Smith
Deputy

ADDENDUM

VIA PETITION FOR
WRIT OF HABEAS CORPUS
CASE # 519203.

PETITIONER/DEFENDANT
HEREBY SUBMITS THE
FOLLOWING POINTS
FOR THE COURT'S
CONSIDERATION. NOW
PETITIONER REQUESTS
THE HONORABLE COURT
TO PLEASE ME ON MY
OWN RECOGNIZANCE OR
GRANT ME AN
REASONABLE BAIL IN
THE SUM OF \$1,000.00
& NOW ALSO REQUESTS
SUPPORT OF THAT IN
THIS COURT SHALL TAKE
JUDICIAL NOTICE OF
CASE # 1488U SEE WOSTS
ANN. Cal. EV. C. §§ 450-460.

1 VIA MY RANDE LARLE
 2 DEMON -
 3 STARTED IN THE
 4 ABOVE - ENTERED TOTAL
 5 COURT TO BE
 6 CLIPPING & BE
 7 IN THE AREA ALL OF
 8 THE LIFE - (A) (M)
 9 ALSO PRESENT (A) (M)
 10 ENGAGED TO BE ---
 11 MARRIED.

12 POINTS & AUTHORITY

13
 14
 15 1. 18 Ann. Cal. P.C. § 1272
 16 2. In general, appear
 17 once or at least is held until
 18 to perform a condition to
 19 of the points which to
 20 of the points which to
 21 1. 18 Ann. Cal. P.C. § 1272
 22 1. 18 Ann. Cal. P.C. § 1272
 23 1. 18 Ann. Cal. P.C. § 1272
 24 1. 18 Ann. Cal. P.C. § 1272
 25 1. 18 Ann. Cal. P.C. § 1272
 26 1. 18 Ann. Cal. P.C. § 1272
 27 1. 18 Ann. Cal. P.C. § 1272

A COURT - APPROPRIATE
ATTORNEY'S FAILURE
TO PRODUCE ADEQUATE
REPRESENTATION MAY
BE TANTAMOUNT TO NO
PRESENTATION AT ALL
U.S. CIR. 6th Amend
11 Fed. v. Garrison,
Judgment of Conviction
must be vacated when it
appears that a sufficient
waiver of the right to
counsel is not shown
had been properly
advised. People v.
White (Ct. App. 213 Cal.
App. 2d 171) 87 Crim. Law
641.13(1) Right
to Counsel is a right
to effective assistance &
includes qualitative
elements which are
not satisfied by mechanical
adherence to forms. ;

1 People v. Ruz (App. 2 Dist.
 2 1961) 16 Cal. Rpt. 1855
 3 196 Cal. App. 2d 695 Dist.
 4 1001 82 S.Ct. 1604 370
 5 U.S. 95 22 819.
 6 Arrest 79(2) Delay
 7 in taking the defendant
 8 before the district court does not
 9 constitute a violation of the
 10 Fourth Amendment sound sound
 11 violation of the Fourth Amendment
 12 prejudicial error showing a
 13 reversible error.
 14 The subject was not showing a
 15 dissipation of the Court's
 16 suppression of the Court's
 17 violation of the PROBATION
 18 much more so than the
 19 Court GRANT BAIL OR
 20 UNDER THE PRESENT
 21 SITUATION
 22 People v. Garcia (App. 1959)
 23 174 Cal. App. 2d 344 P.
 24 2d 855 Crim. Law
 25 245. As a defendant
 26
 27
 28

1 may waive his right to
 2 prosecution the indictment -
 3 tion of illegally seized
 4 evidence by failing to
 5 object to may be
 6 held liable to move to
 7 quash the indictment
 8 in a motion waiving
 9 the right to a trial
 10 after the 14th day of
 11 4th, 5th, 6th, 8th, & 14th. 1st
 12

13 AMENDMENTS.
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Mr. Daniel A. ~~Further~~
 APR 30 2007

DN PPD SE

WEDGIER

CACRIMWITS § 38:28

3 Cal. Crim. Practice: Motions, Jury Instr. 6, Sect. § 38:28 (3d ed.)

Page 1

California Criminal Practice: Motions, Jury Instructions and Sentencing

Current through the 2006 update

Edward A. Rucker and Mark E. Overland

Chapter 38. Trial Motions

VI. Judicial Notice

§ 38:28. Judicial notice--Request

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF _____

PEOPLE OF THE STATE OF

CALIFORNIA,

Plaintiff,

v.

Defendant.

Case No.: _____

NOTICE OF MOTION TO

Date: _____

Time: _____

Place: _____

TO THE DISTRICT ATTORNEY OF _____ COUNTY AND/OR _____ (JVS OR HRS)

REPRESENTATIVE:

PLEASE TAKE NOTICE that on _____ (date), at the hour of _____ or as soon thereafter as counsel may be heard in the courtroom of the above-entitled court, the defendant will request that the court take judicial notice under _____ (specify Ev C §) that _____ (state matter) be judicially noticed.

This request for judicial notice will be based on this notice of motion and memorandum of points and authorities served and filed herewith, on the accompanying materials constituting sufficient information to enable the court to judicially notice the matter, and on all the papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing of the motion:

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CACRIMWITS § 38:28

3 Cal. Crim. Practice: Motions, Jury Instr. 6, Sect. § 38:28 (3d ed.)

Dated: _____

Attorney for Defendant

Authorizes

Notes

Ev C §§ 450-460

Commentary

Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter.

Judicial notice is governed by Evidence Code §§ 450-460. Judicial notice may not be taken of any matter unless it is authorized by these sections. (Ev C § 450) The Evidence Code distinguishes between facts subject to compulsory notice (Ev C § 451) and to optional notice (Ev C § 452). The most commonly used judicial notice material consists of the files of the court or those of other courts.

Compulsory notice: Among the facts which must be noticed by the court are: "the true signification of all English words and phrases and of all legal expressions" (Ev C § 451(a)) and "facts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute" (Ev C § 451(2)).

Permissive notice: Among the facts of which the court may take notice under Ev C § 452 are: (a) Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States; (b) Facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute; and (c) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

Request makes judicial notice mandatory: The court must take judicial notice of any matter in Ev C § 452 when a party requests it, gives sufficient notice to the adverse party, and furnishes the court with sufficient information to allow the court to take judicial notice of the matter. (Ev C § 453)

Instructing the jury: If a matter judicially noticed is a matter which would

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Page

VERIFICATION

VIA PETITION FOR
WRIT OF HABEAS
CORPUS GERMANE
ADDENDUM CASE #
519203.

I declare under penalty
of perjury that the
information is true and
correct. This verificat-
ion was executed on
APR. 30 2007, at Dublin,
California.

Man Juan A. Sotelo
EA PRO SE

1 it is less than 48 hours.
2 SEE/ People v. Pottinger
3 (1978) 21 Cal. 3d 231,
4 242-243, 145 Cal. Rptr.
5 861, 578 P. 2d 108;
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1000000 v. Gates (1988)
200 Cal. App. 3d 1302, 1309,
246 Cal. Rptr. 775. A
delay of even a few
hours might be considered
unnecessary under some
circumstances. SEE/
People v. Haydel (1974) 12
Cal. 3d 190, 199, 115 Cal. Rptr.
394, 524 P. 2d 866. One
consideration which may
determine whether a

POA'S

1 delay is unnecessary is
2 whether the prosecution
3 has the discretion to
4 release the defendant
5 from custody. Evaluating
6 the supporting evidence
7 will necessarily involve some
8 delay in taking a decision
9 before a magistrate.
10 The permissible length
11 of delay, however, varies
12 according to the circum-
13 stances of each case. No
14 delay may be permitted for
15 the initial investigatory
16 activities. See Stanley v.
17 P.D.A.'s

Justice Ct. (1976) 55 Cal. App. 3d
244, 250, 127 Cal. Rptr. 532;
People v. Lee (1970) 3 Cal. App.
3d 514, 521-522, 83 Cal.
Rptr. 715. Examples of
unnecessary delay include
delay from postarrest
follow-up investigations.
SEE/ People v. Thompson
(1980) 27 Cal. 3d 303, 329,
165 Cal. Rptr. 289, 611 P.
2d 883, disapp'd on other
grounds, People v. Darriello
(1991) 52 Cal. 3d 815,
856-858, 277 Cal. Rptr.
122, 802 P. 2d 906, cert den.
502 U.S. 846, 112 S.Ct. 145

P&A

1 116 2 Ed. 2d 111; Youngblood
2 V. Gates (1988) 200 Cal. App.
3 3d 1302, 1319, 246 Cal.
4 Rptr. 775. Scheduling
5 of delayed buses for
6 transportation of
7 detainees to and from
8 Court. Youngblood v.
9 Gates (1988) 200 Cal. App.
10 3d 1302, 1321, 246 Cal.
11 Rptr. 775. And delay
12 resulting from --
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PEA's

1 inadequate police
2 resources. SEE Youngblood
3 v. GATES (SAME) as
4 above. When a delay in
5 taking a defendant before
6 a magistrate is found to
7 be unnecessary or un-
8 reasonable and to have
9 violated the defendant's
10 rights, reversal of a
11 conviction is not re-
12 quired unless the arrested
13 person is able to show
14 that he or she was deprived
15 of a fair trial or other
16 wise substantial prejudice
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P.E.A.S

as a result of the
 wrongful delay. See
 People v. Pottis (1978)
 21 Cal. 3d 231, 244, 145 Cal.
 Rptr. 861, 578 P. 2d
 108. As officers of the
 court, attorneys at law
 must assist in avoiding
 error. See Furlong v. White,
 51 Cal. App. 2d 265, 169 P. 903
 (3d Dist. 1921); and they
 owe a duty of particular
 respect to court and judicial
 officers. See 2n Re Philbrook,
 105 Cal. 471, 38 P. 884 (1895);
 2n Re Shay, 160 Cal. 399, 117
 P. 442 (1911); 2n Re Humphrey,
 174 Cal. 290, 163 P. 60 (1917);

P.A.'s

1 Lyon v. Sup. Ct. 2d and For
 2 43 Cal. 2d 755, 278 P. 2d 681 (1955).
 3 People v. Massey, 137 Cal. App. 2d
 4 628 290 P. 2d 906 (2d Dist.
 5 1955). Attorneys have an
 6 obligation to respect the
 7 administration of justice.
 8 SEE Winick v. County
 9 Sanitation Dist. No. 2, 185
 10 Cal. App. 3d 1170, 230 Cal. Rptr.
 11 289 (2d Dist. 1986). A criminal
 12 defendant who claims misconduct
 13 on the part of the prosecutor is
 14 not required to show that the
 15 prosecutor acted in bad faith.
 16 SEE People v. Burton, 23 Cal. 3d
 17 208, 152 Cal. Rptr. 141, 589 P. 2d
 18 396 (1979). People v. Hill, 17
 19 Cal. 4th 800, 72 Cal. Rptr. 2d
 20 656, 952 P. 2d 673 (1998).
 21 The injury to the defendant
 22 is none the less an injury when
 23 committed in a negligent rather
 24 than intentionally. SEE (SAME)
 25 People v. Burton & People v. Hill.
 26 People v. Bradford, 15 Cal. 4th 229, 65 Cal. Rptr. 2d
 27 145 939 P. 2d 259 (1997).
 28

Westlaw

CCPRTORTS § 13:31

Cal. Civ. Prac. Torts § 13:31

Page 1

California Civil Practice Torts
Database updated October 2006

Nancy Hench, Esq., Ward Smith, Esq.

Chapter 13, False Imprisonment and False Arrest

Malta T. McLaughlin, J.D. [FN60]

II. Issues Particular to False Arrest
C. Detention Following Arrest

Summary

§ 13:31. Delay in bringing before magistrate [Pen. Code § 825]

In general, a person who is arrested must be taken before a magistrate for arraignment without unnecessary delay; and in any event within 48 hours after his or her arrest, excluding Sundays and holidays. [Pen. Code § 825, subd. (a)(1)] When the 48 hours prescribed by Pen. Code § 825, subd. (a)(1) expire at a time when the court in which the magistrate sits is not in session, that time is extended to include the duration of the next regular court session on the judicial day immediately following. If the 48-hour period expires at a time when the court in which the magistrate is sitting is in session, the arraignment may take place at any time during that session. However, when the defendant's arrest occurs on a Wednesday after the conclusion of the day's regular court session, and provided that the Wednesday is not a court holiday, the defendant must be taken before the magistrate no later than the following Friday, provided that the Friday is not a court holiday. [Pen. Code § 825, subd. (a)(2)]

In cases based on unreasonable delay in bringing the plaintiff before a magistrate, the plaintiff need not plead the detention was without lawful authority. [Dragano v. White (1955) 45 Cal 2d 469, 289 P2d 428]

The United States Supreme Court recently held that a county's practice, under Pen. Code § 825, of combining probable cause determinations with its arraignment procedures did not comport fully with the constitutional requirement that a person arrested without a warrant be promptly brought before a neutral magistrate for a determination of probable cause. [County of Riverside v. McLaughlin (1991) 500 U.S. 44, 114 L. Ed. 2d 49, 111 S. Ct. 1661]

The Supreme Court held that although the Fourth Amendment does not require an immediate determination of probable cause, upon completion of the administrative steps incident to arrest, a jurisdiction that chooses to combine probable cause determinations with other pretrial proceedings must do so as soon as is reasonably feasible, but in no event later than 48 hours after the arrest. In *Riverside*, the county's regular practice exceeded the constitutionally permissible 48-hour period because persons arrested on Thursday's might have to wait until the following Monday before receiving a probable cause determination, with an even longer delay if there was an intervening holiday.

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CCPRTORTS § 13:31

Cal. Civ. Prac. Torts § 13:31

Page 2

The Supreme Court held that even a hearing within 48 hours might violate the promptness requirement if the arrested individual can prove that his or her probable cause determination was delayed unreasonably. However, the Court noted that courts evaluating the reasonableness of a delay must allow a substantial degree of flexibility, taking into account the practical realities of pretrial procedures.

In addition, the Court held that where an arrested individual does not receive a probable cause determination within 48 hours, the burden of proof shifts to the government to demonstrate the existence of a bona fide emergency or other extraordinary circumstance, which cannot include intervening weekends or the fact that in a particular case it may take longer to consolidate pretrial proceedings. The Supreme Court also directed that the lower court, on remand, must determine whether the county's practice regarding arrests occurring early in the week, in which arraignments usually take place on the last day possible, is supported by legitimate reasons or constitutes delay for delay's sake. [County of Riverside v. McLaughlin (1991) 500 U.S. 44, 114 L. Ed. 2d 49, 111 S. Ct. 1661]

Thus, the California Supreme Court has held that Pen. Code § 825 does not authorize a two-day detention in all cases. Instead, a limit is placed on what may be considered a necessary delay. A detention of less than two days, if unreasonable under the circumstances, violates both the statute and the Constitution. [People v. Turner (1994) 8 Cal. 4th 137, 32 Cal. Rptr. 2d 762, 878 P.2d 521 (delay not unreasonable given complexity of case, which involved multiple murders, robbery, grand theft)]

[FN60] This chapter was written in consultation with the Honorable Harry A. Schneider, Judge of the Superior Court, Los Angeles County. He received his J.D. degree from the University of Southern California and was admitted to the California Bar in 1964.

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CCPRTORTS § 13:31

END OF DOCUMENT

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01 (REV. 5/01)

MANUEL COURTHOUSE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
CLERKS DOCKET AND MINUTES

CKET ME DEPT. **110** CRT. DATE/TIME **6/02/06 09:00**

ENT ME **SINGLETON, DUANE ANTHONY** RPT. NO. **06039052** DOCK NO. **519203**

IOC. **ATYEP** CEN. **6233295** PFN. **ALX572** A DAY **05/10/06** SJ DATE **12/11/06**
COUNTS **PIC 00500 AAG-OPD ACITY 0A**

ARGES **1)F11350(A) HS 3 PRS**

STAT **SET** BAIL **\$30,000.00** TOTAL DAYS IN CUSTODY: **7**

IL STAT. BOND DT. BOND CO. DOB **06/14/61**

IL STAT. BOND DT. BOND CO. BAC

IE/REST. DATE PAID REC. NO. TIME WAIVED

PROCEEDING

DCCO:

DGE **EVELIO GRILLO** DEP. D.A. *Ann Kenfield*

P. CLERK **BARBARA SMITH** DEF. ATTY. **GARY** *Sherrin* ☐ Not Present

PORTER *Deanna Rangel #11324* OTHERS

Defendant: ☒ Present ☐ Not Present ☐ Excused ☒ In Custody ☐ Pro Per

Interpreter is present. Language spoken:

Defendant duly arraigned/advised as to constitutional rights ☐ Defendant waives arraignment ☒ Waiver of Rights filed

Defendant served: ☐ Complaint ☐ Discovery ☐ Petition ☐ Motion ☐ Protective Order (PC 136.2)

Referred to Public Defender ☐ Public Defender files conflict ☐ Financially ineligible ☐ Private counsel appointed

Plea Withdrawn ☒ Change of Plea ☒ Plea to count(s) ☐ Not Guilty ☐ Guilty ☒ No Contest/Found Guilty

Stipulates to: lesser included / reasonably related offense of count(s) to charge(s)

Time waived for: ☐ Preliminary Examination days ☐ Trial ☒ Sentence ☐ Time not waived ☐ Time waiver withdrawn

Clauses: ☐ Stricken ☐ Admitted ☐ Sentencing Purposes Only

Priors: ☐ Stricken ☐ Admitted ☐ Denied

Probation: ☐ Conditional Sentence: ☐ Granted for years/months ☐ See attached conditions

☐ Revoked ☐ Restored ☐ Modified ☐ Extended to ☐ Continue on same terms and conditions ☐ Terminated

Defendant admits probation violation ☐ Previous order revoking probation vacated, set aside, defendant restored to probation

Submit to search and seizure of person, residence, vehicle or any property under defendant's control

No contact with / not to annoy directly or indirectly: stay at least away

Additional order(s):

Petition/Motion ☐ Granted ☐ Denied ☐ Withdrawn

Referred to: ☐ Probation Dept. ☐ Financial Hearing Officer ☐

Institution: ☐ Referred to for Determination ☐ Ordered ☐ Reserved ☐ Modified

Bail Forfeited ☐ Bail Forfeiture Set Aside ☐ Bail Reinstated ☐ Bail Exonerated ☐ Summary Judgment Entered

Bench Warrant: ☐ Issued ☐ Withheld ☐ Withdrawn ☐ Bail Set at \$ ☐ No Cite Release ☐ Night Service

Defendant waives no-sentence probation dept.

Decl of Conflict filed by P.D.. The Court accepts & appoints Gary Sherrin.

CERT. ALAMEDA COUNTY SUPERIOR COURT
 DEF. TO APPEAR IN DEPT. **108**
 ON **6/5/06** AT **9:00** A.M.
 BAIL SET AT **O.R. 4**

Date: **6/5/06** Time: **0900** Dept. **108** Proc.: **RJS** Date: Time: Dept. Proc.:

US Codes:

(REV. 5/01)

RENE DAVIDSON COURTHOUSE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

CLERKS DOCKET AND MINUTES

KEY E _____ DEPT. 108 CRT. DATE/TIME 6/05/06 09:00
 JT SINGLETON, DUANE ANTHONY RPT. NO. 06039052 DOCK NO. 5519203
 E _____
 JC R&S CEN. 6233295 PFN. ALX572 A DAY 05/10/06 SJ DATE 12/12/06
 COUNTS AAG-OPD ACITY OA
 ARGES) F11350(A) HS

STAT OR BAIL \$0.00 TOTAL DAYS IN CUSTODY: 8
 STAT. BOND DT. BOND CO. DOB 06/14/61
 STAT. BOND DT. BOND CO. BAC
 E/REST. DATE PAID REC. NO. TIME WAIVED

PROCEEDING

DCCO:

GE GLORIA RHYNES
 CLERK ELENA PENA *D Spinks*
 ORDER N. Cunningham #9759
 DEP. D.A. *B. Lowe*
 DEF. ATTY. *A. Shacter*
 OTHERS *P.O. N. Potts* ☐ Not Present

Defendant: ☒ Present ☐ Not Present ☐ Excused ☐ In Custody ☐ Pro Per
 Interpreter _____ is present. Language spoken: _____
 Defendant duly arraigned/advised as to constitutional rights ☐ Defendant waives arraignment ☐ Waiver of Rights filed
 Defendant served: ☐ Complaint ☐ Discovery ☐ Petition ☐ Motion ☐ Protective Order (PC 136.2)
 Referred to Public Defender ☐ Public Defender files conflict ☐ Financially ineligible ☐ Private counsel appointed
 Plea Withdrawn ☐ Change of Plea ☐ Plea to count(s) ☐ Not Guilty ☐ Guilty ☐ No Contest/Found Guilty
 Stipulates to: lesser included / reasonably related offense of count(s) _____ to charge(s) _____
 Time waived for: ☐ Preliminary Examination _____ days ☐ Trial ☐ Sentence ☐ Time not waived ☐ Time waiver withdrawn
 Clauses: ☐ Stricken ☐ Admitted ☐ Sentencing Purposes Only
 Priors: ☐ Stricken ☐ Admitted ☐ Denied
 Probation: ☐ Conditional Sentence: ☐ Granted for _____ years/months ☐ See attached conditions
☐ Revoked ☐ Restored ☐ Modified ☐ Extended to _____ ☐ Continue on same terms and conditions ☐ Terminated
 Defendant admits probation violation ☐ Previous order revoking probation vacated, set aside, defendant restored to probation
 Submit to search and seizure of person, residence, vehicle or any property under defendant's control _____
 No contact with / not to annoy _____ directly or indirectly: stay at least _____ away
 Additional order(s): *3/A Warrant Maxed @ DOB 9/11/57*
 Petition/Motion ☐ Granted ☐ Denied ☐ Withdrawn
 Referred to: ☒ Probation Dept. ☐ Financial Hearing Officer ☒ Sentencing Report
 Institution: ☐ Referred to _____ for Determination ☐ Ordered ☐ Reserved ☐ Modified
 Bail Forfeited ☐ Bail Forfeiture Set Aside ☐ Bail Reinstated ☐ Bail Exonerated ☐ Summary Judgment Entered
 Bench Warrant: ☐ Issued ☐ Withheld ☐ Withdrawn ☐ Bail Set at \$ _____ ☐ No Cite Release ☐ Night Service

Date: 6/6/06 Time: 9 Dept. 108 Proc.: 36Htg Date: _____ Time: _____ Dept. _____ Proc.: _____

JS Codes: _____

(REV. 5/01)

RENE DAVIDSON COURTHOUSE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
CLERKS DOCKET AND MINUTES

DEPT. **108** CRT. DATE/TIME **6/06/06 09:00**
 RPT. NO. **06039052** DOCK NO. **5519203**
SINGLETON, DUANE ANTHONY
 CEN. **6233295** PFN. **ALX572** A DAY **05/10/06** SJ DATE **12/13/06**
36HG **ACITY OA**
COUNTS
ARGES **F11350(A) HS**

T OR BAIL \$0.00 TOTAL DAYS IN CUSTODY: 8
 STAT. BOND DT. BOND CO. DOB **06/14/61**
 STAT. BOND DT. BOND CO. BAC
 E/REST. DATE PAID REC. NO. TIME WAIVED

PROCEEDING**DCCO:**

CLERK **GLORIA RHYNES**
 CLERK **ELENA PENA**
 PORTER **K. Mangels # 7259**
 DEP. D.A. **B. Lowe**
 DEF. ATTY. **G. Sherrer**
 OTHERS **PO. W. H. H.** ☒ Not Present

Defendant: ☒ Present ☐ Not Present ☐ Excused ☐ In Custody ☐ Pro Per
 Interpreter is present. Language spoken:
 Defendant duly arraigned/advised as to constitutional rights ☐ Defendant waives arraignment ☐ Waiver of Rights filed
 Defendant served: ☐ Complaint ☐ Discovery ☐ Petition ☐ Motion ☐ Protective Order (PC 136.2)
 Referred to Public Defender ☐ Public Defender files conflict ☐ Financially ineligible ☐ Private counsel appointed
 Plea Withdrawn ☐ Change of Plea ☐ Plea to count(s) ☐ Not Guilty ☐ Guilty ☐ No Contest/Found Guilty
 Stipulates to: lesser included / reasonably related offense of count(s) to charge(s)
 Time waived for: ☐ Preliminary Examination days ☐ Trial ☐ Sentence ☐ Time not waived ☐ Time waiver withdrawn
 Clauses: ☐ Stricken ☐ Admitted ☐ Sentencing Purposes Only
 Priors: ☐ Stricken ☐ Admitted ☐ Denied
 Probation: ☐ Conditional Sentence: ☒ Granted for **3** years/months ☐ See attached conditions
☐ Revoked ☐ Restored ☐ Modified ☐ Extended to ☐ Continue on same terms and conditions ☐ Terminated
 Defendant admits probation violation ☐ Previous order revoking probation vacated, set aside, defendant restored to probation
 Submit to search and seizure of person, residence, vehicle or any property under defendant's control
 No contact with / not to annoy, directly or indirectly: stay at least away
 Additional order(s): **10 Reg priors to 11590 HS**

Petition/Motion ☐ Granted ☐ Denied ☐ Withdrawn
 Referred to: ☐ Probation Dept. ☐ Financial Hearing Officer ☐
 Institution: ☐ Referred to for Determination ☐ Ordered ☐ Reserved ☐ Modified
 Bail Forfeited ☐ Bail Forfeiture Set Aside ☐ Bail Reinstated ☐ Bail Exonerated ☐ Summary Judgment Entered
 Bench Warrant: ☐ Issued ☐ Withheld ☐ Withdrawn ☐ Bail Set at \$ ☐ No Cite Release ☐ Night Service

EL Nunc pro Tunc minutes of 6/5/06 - placed on 3yrs 6mm. Prob.
m & cond probation imposed & SA from control maxey DOB 9/11/57
Att was excused for today matter court

Date: **6/14/06** Time: **9** Dept. **108** Proc.: **36PR** Date: **6/4/09** Time: **9** Dept. **108** Proc.: **TRMPP**
 US Codes: **6/4/09 9 108 POC**

~~EXHIBIT~~

~~A~~

(i.e., VERIFICATION UJA OUT-
standing minute order, &
sentencing transcripts.)

VERIFICATION

I, D.A. SINGLETON, am the
petitioner in the above-entitled
proceeding. I have read
the petition and know its
contents: ALBERT, USA
THE MISSING DOCUMENTS
re., minute order, & sentencing
transcript. I, DAD -
PERSONALLY REQUEST COPIES
OF SAME FROM THE
GERMANE ESQ. DAVE
GARY L. SWERDLOFF, AS IF
THIS WAITING ALL TOO NO
AHEAD.

I declare under penalty of perjury
that the foregoing is true and
correct. This declaration was
executed on MAR. 30 2007, at
Dublin, California.

Ms. Duan A. J. [Signature]

IN PRO SE

FILED

ALAMEDA COUNTY

ORIGINAL

NOV 7 2006

CLERK OF THE SUPERIOR COURT

By Glenn [Signature]

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

WILEY W. MANUEL COURTHOUSE

BEFORE THE HONORABLE EVELIO GRILLO, JUDGE

DEPARTMENT NUMBER 110

---oOo---

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)

Plaintiff,)

Vs.)

No. 519203

DWAYNE SINGLETON,)

Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
CHANGE OF PLEA

WILEY W. MANUEL COURTHOUSE
OAKLAND, CALIFORNIA

JUNE 2, 2006

A P P E A R A N C E S:

FOR THE PEOPLE:

ANN KENFIELD
DEPUTY DISTRICT ATTORNEY

FOR THE DEFENDANT:

GARY SCHERRER
DEPUTY PUBLIC DEFENDER

REPORTED BY: DEANA RANGEL, CSR #11324

1 JUNE 2, 2006

2 ---oOo---

3 P R O C E E D I N G S

4 ---oOo---

5
6 THE COURT: On People V. Singleton, may I have your
7 appearances?

8 MS. KENFIELD: Ann Kenfield.

9 MR. SCHERRER: Gary Scherrer appearing with and for
10 Dwayne Singleton who is presently in custody.

11 THE COURT: Good morning, Mr. Singleton.

12 THE DEFENDANT: Good morning.

13 THE COURT: Okay. First thing I have a is
14 declaration of conflict of interest from the public
15 defender, so I am going to appoint you, Mr. Scherrer, as
16 conflict counsel for Mr. Singleton.

17 MR. SCHERRER: I would accept that appointment at
18 this time, your Honor.

19 THE COURT: I have signed the order. On this case I
20 understand that there is a negotiated disposition?

21 MR. SCHERRER: That's correct.

22 MS. KENFIELD: Yes, your Honor.

23 THE COURT: Is Dwayne Anthony Singleton your true
24 name?

25 THE DEFENDANT: Yes.

26 THE COURT: Who is going to state the terms?

27 MS. KENFIELD: I will.

28 THE COURT: Okay. Mr. Singleton, the District

1 Attorney is going to state the terms of your plea agreement.
2 I want you to listen very carefully then after she states
3 those terms I'm going to ask you a few questions.

4 MS. KENFIELD: Thank you, your Honor. It's my
5 understanding that Mr. Singleton will be entering a plea to
6 the sole count charged in the complaint, a violation of
7 Health and Safety Code 11350(a), a felony. That offense
8 carries a state prison sentencing range of 16 months, two or
9 three years in state prison. Mr. Singleton is eligible for
10 probation pursuant to Prop 36, and it's my understanding he
11 desires to take advantage of those services. Is that
12 correct, Mr. Singleton?

13 THE DEFENDANT: Yes, absolutely, on an outpatient
14 program.

15 MS. KENFIELD: Proposition 36 is a drug treatment
16 program and the gamut of services is both inpatient and
17 outpatient depending upon the assessment that the Behavioral
18 Health care assessors determine is the appropriate treatment
19 for Mr. Singleton.

20 ~~He would therefore be placed on -- he would be~~
21 waiving time for sentence and waiving a pre sentence
22 probation report. And upon the Court's acceptance of the
23 plea in this matter he would be summarily placed on three
24 years formal felony probation pursuant to Prop 36.

25 THE COURT: Hold on. You can waive time for
26 sentencing, waive a probation report?

27 MS. KENFIELD: Waive a pre sentence probation
28 report.

1 THE COURT: Okay.

2 MS. KENFIELD: And this court today would summarily
3 place him on three years formal felony probation. This
4 court would impose limited terms, specifically this court
5 would order DNA samples pursuant to 296, impose a four-way
6 search clause, that is a search of the defendant's
7 residence, person, personal property and vehicle under his
8 control by a peace officer probation officer any time day or
9 night with or without a warrant with or without probable
10 cause.

11 The Court would impose the condition that he be in
12 Department 108 on Monday morning at 9:00 a.m. for interview
13 with the Behavioral Health care associates and assessment,
14 and he would be ordered to cooperate with the drug treatment
15 as ordered by the Court.

16 Mr. Singleton would agree to have an additional
17 condition imposed at that time. At that time he would also
18 be referred to the probation department for a probation
19 report and a drug treatment program. And when the probation
20 report comes back he would agree that the judge could at
21 that point impose still additional conditions.

22 THE COURT: Okay. So he's going to agree to have
23 additional terms imposed at what point?

24 MS. KENFIELD: Both on Monday and after the receipt
25 of the probation report.

26 THE COURT: Okay.

27 MS. KENFIELD: There would be a fine in the amount
28 of between \$200 and \$10,000, and the amount of that fine

1 does take into account the defendant's ability to pay.

2 There would be a probation administration and parole
3 administration fund fine that would be stayed pending the
4 defendant's performance on probation.

5 THE COURT: Okay. So the \$200 to \$10,000 is a
6 restitution fund fine?

7 MS. KENFIELD: Yes.

8 THE COURT: And the other one you are saying he was
9 going to have imposed on him?

10 MS. KENFIELD: It's called a probation/parole
11 administration fine, and that any payments on that is stayed
12 so long as Mr. Singleton on the is performing well on
13 probation.

14 Something else Mr. Singleton needs to understand.
15 If he does not successfully complete Proposition 36
16 probation and he violates his probation to such an extent
17 that he is sentenced to state prison he would be released
18 after he serves his time on parole. Parole can last up to
19 five years, and upon a parole violation you can be returned
20 to state prison for up to one year for each violation.

21 I think that covers it. In addition, Mr. Singleton
22 has three prior convictions. The priors would be stricken
23 for purposes of sentencing only. It's my understanding that
24 there is a traffic matter pending as well, and that matter
25 will be dismissed.

26 THE COURT: Do you have a docket number on the
27 traffic matter?

28 MS. KENFIELD: We have the CEN number, 6237194.

1 THE COURT: Did you hear everything that the
2 District Attorney said?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. Now, do you understand that if
5 it's determined -- if at some point it's determined that you
6 aren't eligible for Proposition 36 that you have a right to
7 withdraw your plea and resume defenses of the charges
8 against you. Do you understand that?

9 THE DEFENDANT: I do have that right.

10 MS. KENFIELD: No, that's not part of the plea, your
11 Honor, if he rejects services pursuant to Proposition 36.

12 THE COURT: No, I'm not saying that. I'm saying if
13 independently it was determined that, say, the District
14 Attorney came back and said, oh no, he's not really
15 eligible.

16 MS. KENFIELD: He is eligible.

17 THE COURT: I understand that. I've got waivers
18 that I am supposed to read into the record, because if I
19 don't take his waiver in open court and it is later
20 determined that he's not eligible for Proposition 36 and I
21 have not told him this, then I get appealed.

22 MS. KENFIELD: Okay.

23 THE COURT: Do you understand that if it was
24 determined if someone, either the District Attorney or
25 someone else was later to determine that you were not
26 eligible for Proposition 36 you could withdraw your plea and
27 resume defense on the charges set forth in the complaint.
28 Do you understand that?

1 THE DEFENDANT: Could I get you to clarify what you
2 mean?

3 THE COURT: Yes. Right now the District Attorney
4 attorney and your counsel and the Court believes that you
5 are eligible for Proposition 36 and we are going to sentence
6 you under Proposition 36; do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Now, if for some reason it was later
9 determined that you weren't eligible, for example, the Court
10 made a mistake, the District Attorney or your attorney made
11 a mistake and you weren't really eligible, you would have a
12 right to withdraw your plea and defend on the charges. Do
13 you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Now, the Court is going to impose drug
16 treatment as a condition of probation in a manner and a
17 level that the Court or the probation department deems
18 appropriate. This would be based in part on the risk
19 assessment that the District Attorney described on the
20 record. It will be performed -- who is the name of the
21 provider?

22 MS. KENFIELD: This is the Behavioral Health care
23 specialists that are assigned to Department 108.

24 THE COURT: It will be done by the Behavioral Health
25 care specialists. Your treatment may last up to one year
26 and may consist of outpatient residential treatment,
27 narcotic replacement therapy, drug education or prevention
28 courses or some combination thereof.

1 The Court can also require participation in
2 vocational training, family counseling, literacy training
3 and community service as a further condition of probation.
4 The Court can alter the intensity of treatment as may be
5 appropriate.

6 Treatment ordered by the Court may be followed by up
7 to six months of additional aftercare as the Court or
8 probation department find appropriate.

9 The Court may also require you to contribute to the
10 cost of your treatment to the extent you are able to do so.
11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You may also be required to submit to
14 random drug testing, to refrain from the use of alcohol or
15 illegal drugs, to refrain from being at known drug areas or
16 being present at any place where illegal drugs are used as
17 another term of probation. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Although Proposition 36 prohibits
20 ~~incarceration as a condition of probation, you may be~~
21 incarcerated for up to the maximum penalty of the charge
22 that you are pleading guilty to which is sixteen months to
23 three years if you fail to complete the requirements of your
24 drug program or you otherwise violate the terms of your
25 probation. Do you understand that?

26 THE DEFENDANT: Did you say sixteen months to three
27 years?

28 THE COURT: Yes. Sixteen months up to three years.

1 That is the exposure, is that correct, counsel?

2 MS. KENFIELD: Yes.

3 MR. SCHERRER: Let me explain it to him.

4 (Brief pause.)

5 MR. SCHERRER: Thank you, your Honor.

6 THE DEFENDANT: Formal probation, that means that I
7 has a probation officer?

8 THE COURT: Yes. You will have a probation officer.

9 THE DEFENDANT: That's good, that's good. I would
10 like to get some assistance in that.

11 THE COURT: All right. Now if you successfully
12 complete your probation you can petition the Court for
13 dismissal of the charges when you complete your probation.
14 If that happens and the Court finds you have successfully
15 completed your drug treatment and substantially complied
16 with the conditions of probation your conviction will be set
17 aside and the case will be dismissed.

18 In that event you would be released from all
19 penalties and disabilities under California law resulting
20 ~~from the conviction, except you would not be permitted to~~
21 own, posses, or have in your custody or control any
22 concealable firearm and you would be subject to prosecution
23 for such acts; do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: In addition, if you are successful when
26 you complete this program you could deny in response to any
27 question concerning your prior criminal record that you were
28 arrested for or convicted of the offense except that you

1 would have to disclose the arrest or conviction in any
2 questionnaire or application for public office, for a
3 position as a peace officer, for licensing by the state or
4 local agency, or for contract work with the California state
5 lottery or for the purpose of serving on a jury; do you
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You have heard the plea that the
9 District Attorney described. Do you have any questions on
10 that?

11 THE DEFENDANT: Well, my only problem would be I'm
12 not going to be able to do in-home treatment, residential
13 treatment. I can do as much outpatient treatment as they
14 would like for me to do, and I do like -- I like the idea of
15 me having a formal probation officer because that could
16 possibly help me get jobs and secure identification and
17 things of this nature as opposed to me just being on court
18 probation where it's just dealing with the Court.

19 THE COURT: Okay. That's not part of the deal, and
20 I can't guarantee that you won't be ordered to go to
21 residential treatment.

22 THE DEFENDANT: Right now I have too many
23 responsibilities. I have a father who has Alzheimers, I'm
24 in the process of getting married, I have a fiance that I'm
25 engaged to. As a matter of fact, I was in your very
26 court -- I had the green suit on and the green hat -- named
27 Booker. I was in your very court about a week and a half or
28 so ago sitting in the audience in that regard for her.

1 THE COURT: Hold on for just a minute. I'm not sure
2 what I should do with this. It would seem to me that we
3 should go forward with the plea. If he does not want to
4 take, if the assessment says he needs residential treatment
5 and he says he's not willing to do that then I think it has
6 to go back to square one.

7 MS. KENFIELD: If that is the case, your Honor, my
8 concern is that if he's pleading to Proposition 36 that
9 means he's pleading to drug treatment in the manner in which
10 they deem appropriate for his situation. If he says, "I'm
11 only going to do this part of Prop 36, and if they give me
12 residential treatment I'm going to reject the services
13 pursuant to Prop 36," I would oppose the concept that he
14 would be allowed to withdraw his plea at that point because
15 he will have already been released from custody pursuant to
16 the plea.

17 THE COURT: I'll make it real simple. If -- I can't
18 make it simple, I'm going to have to think about this a
19 little bit actually. But it seems to me that if the
20 position of the District Attorney's office is that he will
21 not have the option of withdrawing his plea if he's assigned
22 to residential, then I really shouldn't be taking his plea
23 at all today.

24 MS. KENFIELD: I think that's the concern I have.

25 THE COURT: Because what you are telling me is if
26 he's assigned to residential that's a violation and then he
27 gets a felony charge, right?

28 MS. KENFIELD: Well, if he's assigned --

1 THE COURT: I'm just not trying to cut you off,
2 counsel, but I'm just -- I'm very glad now that we didn't
3 take a rushed plea yesterday afternoon, because this is
4 precisely the type of thing that I have concerns about.

5 I'm not saying that the District Attorney is being
6 unreasonable, I'm just trying to be clear as to what's
7 happened so I can properly advise Mr. Singleton.

8 What's going to happen if he goes to Proposition 36
9 and he's assigned residential treatment and he says, "I'm
10 not going to take it because I'm getting married or my
11 father has Alzheimer's or I don't want to for whatever
12 reason." That would be a violation of his probation, right?

13 MS. KENFIELD: Yes.

14 THE COURT: And if he violates his probation then he
15 gets violated, he comes back to a judge and he can be
16 sentenced for up to three years for state prison, right?

17 MS. KENFIELD: Remotely, yes.

18 THE COURT: Well --

19 MS. KENFIELD: That is a possibility, yes. And
20 that's because he is choosing at that point not to

21 participate in Proposition 36. The plea with the summary
22 probation and being placed on Proposition 36 is he's
23 choosing to accept Proposition 36, he's choosing to accept
24 the drug treatment.

25 Now, because it is a summary placement and because
26 of the statutory constructs of Proposition 36 the normal
27 presentencing interview does not take place. He's released
28 as a sentenced individual today.

1 THE COURT: I understand that.

2 MS. KENFIELD: And my concern listening to Mr.
3 Singleton is that he's not truly accepting probation under
4 Proposition 36. He's using Proposition 36 to get out of
5 custody today and saying, "I will only accept this part of
6 the deal." Never mind the fact that he may need more
7 intensive treatment.

8 THE COURT: I understand your concern. You need to
9 understand my concern, and that is that if I accept this
10 plea today and he walks out of here it will be a knowing,
11 intelligent and voluntary plea.

12 MS. KENFIELD: Absolutely. And I totally agree with
13 the action that the Court is taking. My concern is I'm not
14 sure based on Mr. Singleton's statements that he's truly
15 accepting probation pursuant to Prop 36. In which case,
16 he's not accepting Prop 36 probation and this procedure
17 wouldn't be appropriate.

18 THE COURT: Okay. I want you to go talk to your
19 client a little bit more, because I'm not convinced that if
20 ~~I were to accept this plea with the caveat that Mr.~~

21 Singleton has made that it would be a knowing, intelligent
22 and voluntary one. And if I do accept it I only accept it
23 after Mr. Singleton clearly to me understands that as you
24 sit here today you don't have the option of saying, "I will
25 take this treatment but not the other treatment."

26 THE DEFENDANT: I don't have that option is what you
27 are saying?

28 THE COURT: That's exactly what I'm saying. I want

1 you to go talk to your attorney just so that you're real
2 clear on it.

3 What I'm trying to explain to you is that -- let me
4 give you a hypothetical. Let's say you took the plea, the
5 plea was taken today and you walked out of here and then
6 your father's Alzheimers got worse and -- is your mother
7 still alive?

8 THE DEFENDANT: My mother is deceased.

9 THE COURT: Okay. Some other relatives had health
10 problems, and just a lot of personal things started
11 happening which made it in your mind impossible for you to
12 do residential treatment but your assessment said that you
13 had to do a residential treatment. If at that point not
14 withstanding these terrible, terrible personal tragedies and
15 the significant personal obligations that you had, if not
16 withstanding all of that you said, "I'm not going to do it
17 because I have all these personal obligations," you would
18 have violated your parole, you would be subject to going
19 back to prison for up to three years and that would be the
20 end of Prop 36.

21 So Proposition 36 -- your attorney is going to take
22 you aside and explain that to you so that you have a full
23 understanding of that. I don't want you walking out of here
24 thinking that you can take outpatient treatment and not
25 residential treatment. Because if when you go to Department
26 108 the assessment is done and they say you need residential
27 or if they said you can do outpatient, but as your treatment
28 progressed over the course of the next year it was later

1 determined that the outpatient wasn't working and you needed
2 residential -- and correct me if I'm wrong, counsel -- the
3 recommendation was made that you go into residential
4 treatment six or nine months down the road and you didn't do
5 it you would be in violation of your probation.

6 THE DEFENDANT: Proposition 36, was to my
7 understanding it was like three strikes you out or something
8 like that. It was to my understanding that the very first
9 mishap that one had they wasn't necessarily --

10 THE COURT: Let me explain something about that to
11 you, too.

12 THE DEFENDANT: Thank you.

13 THE COURT: When I'm advising you of your rights I
14 can't deal with evaluating the probabilities or the
15 possibilities of what might happen. I have to tell you what
16 your maximum legal exposure is, because otherwise I'm not
17 doing my job as a judge.

18 THE DEFENDANT: Okay.

19 THE COURT: I want you to go talk to your attorney.
20 Remember last night you felt bad because I didn't want to
21 send you home immediately and I said I'm not going to have a
22 chance to advise Mr. Singleton of his rights, this is why I
23 wanted you to come back precisely for this reason.

24 THE DEFENDANT: Do allow me to say this, you just
25 made the point I can talk to my attorney, but that would be
26 like repetitive. You have just made it absolutely clear to
27 me that in the event these people tell me that I have to go
28 to a live in program then I place myself in such jeopardy as

1 violating the probation. With that in mind and with me
2 totally understanding that I still wish to make this plea.

3 THE COURT: I appreciate that. One of the questions
4 I'm going to ask you is have you had an opportunity to
5 discuss it with your attorney and have you discussed it with
6 your attorney. I'm going to give you a couple of minutes to
7 do that, so when I ask you that question you can truthfully
8 say yes you have. So if this should go up to the court of
9 the appeal instead of the Court of appeal saying Judge
10 Grillo didn't do his job, saying did he ask the defendant if
11 he had an opportunity to discuss it because he just took the
12 plea and get reversed, they will say he had the defendant
13 take an opportunity to discuss it and he did that.

14 (Brief pause in proceedings.)

15 THE COURT: Mr. Singleton, you have now had a chance
16 to discuss with your attorney this issue regarding what type
17 of drug treatment you would accept, correct?

18 THE DEFENDANT: Uh-huh.

19 THE COURT: And do you now understand that you are
20 required if you take Proposition 36 to accept and
21 successfully complete any drug treatment that is recommended
22 to you by the probation department or the risk assessor; do
23 you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Are you willing to go forward with the
26 plea given that understanding?

27 THE DEFENDANT: Yes.

28 THE COURT: All right. Before I accept, before I go

1 any further on this I want to tell you what rights you have
2 just so you're clear on that.

3 If you didn't take this plea, you understand that
4 you would have a right to a jury trial, correct?

5 THE DEFENDANT: Yes.

6 THE COURT: At your trial you have a right to see
7 and hear the witnesses against you, to testify under oath
8 and allow your attorney to question those witnesses. Do you
9 understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: You also understand that at the trial
12 you could choose not to testify and remain silent and not
13 incriminate yourself.

14 THE DEFENDANT: Yes.

15 THE COURT: You also understand that you have a
16 right to present a defense which would include testifying on
17 your own behalf, presenting witnesses and evidence, using
18 the Court's subpoena power to bring witnesses at the trial;
19 do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you also understand that if you
22 didn't do this plea agreement you have a right to a
23 preliminary hearing to determine that there's probable cause
24 to believe that a felony has been committed and you are the
25 person that committed the crime. And at the preliminary
26 hearing you have the same rights that I just explained to
27 you except the right to have the matter heard by a jury; do
28 you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that by accepting
3 Proposition 36 and pleading this will be a guilty plea to
4 the charge, is that correct?

5 MR. SCHERRER: I indicated no contest.

6 THE COURT: By pleading no contest you are giving up
7 these rights, and in fact you are incriminating yourself by
8 pleading guilty to these charges; do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Have you had a chance to discuss your
11 case and the defense of your case with your attorney?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you understand each of the rights
14 that I have explained to you?

15 THE DEFENDANT: Yes.

16 THE COURT: And you are willing to waive and give up
17 these rights; is that correct?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Now as a direct consequence of
20 the plea you are going to plead guilty to one count of

21 Health and Safety Code Section 11350(a), a felony. You will
22 be placed on probation, formal probation under Proposition
23 36. You will be waiving your time for sentencing. You will
24 be waiving a pre sentencing probation report. Your
25 probation period will be three years formal probation.

26 You will be required to give a DNA sample, blood and
27 saliva sample pursuant to Penal Code 296; do you understand
28 that?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that you will be
3 subject to a four way search clause, which means during the
4 period of your probation you, your property, any automobiles
5 under your control and your place of residence can be
6 searched with or without probable cause, with or without a
7 warrant, day or night, by any police, probation parole or
8 other peace officer of the state of California?

9 THE DEFENDANT: Yes.

10 THE COURT: You will also have to appear in
11 Department 108 on Monday, June 5th, 2006, for an interview
12 and an assessment.

13 As one of the terms of your probation you will be
14 required to cooperate with your drug treatment and you agree
15 to have additional terms imposed on your treatment and your
16 probation on Monday in Department 108 and by the Court after
17 receipt of the probation report. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: You will also be required to pay
20 restitution fund fine of between \$200 and \$10,000 subject to
21 your ability to pay, a court security fund fine of \$20, and
22 you will be liable for a probation/parole administrative
23 fine in an amount to be determined. But that fine will be
24 stayed if you were performing satisfactorily on your
25 probation. Do you understand that?

26 THE DEFENDANT: What do you mean, that entirety of
27 what I cannot afford to pay or are you speaking to the last
28 phase that you just spoke of?

1 THE COURT: I'm not sure what your question is.

2 THE DEFENDANT: Are you speaking of from the \$200 to
3 the \$10,000, et. al, or the end of it.

4 THE COURT: The \$200 to \$10,000 is subject to your
5 ability to pay.

6 THE DEFENDANT: Well, I don't have ability to pay.

7 THE COURT: Well then it's going to be \$200, that's
8 the minimum. The court security fine is \$20, you have to
9 pay that. The probation parole administrative fine will be
10 paid only if you are not performing satisfactory on your
11 probation. In other words, as long as you are with the
12 program and doing what you are supposed to do you don't have
13 to pay that. But if you don't perform satisfactorily on
14 your probation then there would be a fine imposed. Do you
15 understand that?

16 THE DEFENDANT: Okay.

17 THE COURT: Now, in the event that you violate your
18 probation you could be sent back to state prison for a
19 period of from sixteen months to three years. In the event
20 you are sent back to state prison and you are released on
21 parole you could be subject to up to five years of parole.
22 If you violate that parole you could be sentenced for up to
23 one year for each parole violation. Do you understand that?

24 THE DEFENDANT: Parole lasts for five years?

25 THE COURT: On this it could last for up to five
26 years.

27 MR. SCHERRER: Only after you went to prison.

28 THE COURT: Only if you go to prison. If you go to

1 prison and they decide to parole you as a condition to you
2 getting out they can say we're putting you on parole for
3 five years. If you wanted to get out you would have to
4 accept that condition.

5 Once you are out on parole if you violate it for
6 each violation you can go back to prison for one year. Do
7 you understand that?

8 THE DEFENDANT: Yeah. Parole is not three years any
9 more, it's four years?

10 MR. SCHERRER: They've changed it.

11 THE COURT: You can get a longer parole term than
12 your sentence. You can choose to stay in prison and serve
13 out your sentence.

14 THE DEFENDANT: They don't let you do that.

15 THE COURT: All right. Well, you are telling me
16 something I don't know. You don't have to take parole. Now
17 your prior convictions are going to be stricken for the
18 purposes of sentencing and your traffic case under the same
19 of CEN number 6237194 will be dismissed. Do you understand
20 that?

21 THE DEFENDANT: Okay. I have one other matter you
22 might be kind enough to clear up.

23 THE COURT: Let me ask you if you understand what I
24 just said first.

25 THE DEFENDANT: Yes.

26 THE COURT: Okay. Let me ask a couple of questions,
27 couple more questions, then I'm going to ask you if you have
28 any questions.

1 Now, do you understand that your plea is the same as
2 a guilty plea and that you are being found guilty as part of
3 this plea agreement?

4 THE DEFENDANT: Yes.

5 THE COURT: Is there a factual basis for the plea?

6 MR. SCHERRER: So stipulated based upon the contents
7 of the police report provided.

8 MS. KENFIELD: Yes.

9 THE DEFENDANT: Contents of the police report, I
10 have not read the police report.

11 MR. SCHERRER: He's not asking you, he's asking me
12 if I believe there's a factual basis for the plea. And I'm
13 telling him there is based upon the police report.

14 THE COURT: I'm going to ask you in a minute if you
15 have any questions, sir. Last thing, I have something here
16 in my hand it's a green sheet of paper called a waiver on
17 plea of guilty no contest felony. Do you see that?

18 THE DEFENDANT: Uh-huh.

19 THE COURT: That purports to have your signature on
20 it. Is that your signature?

21 THE DEFENDANT: Yes.

22 THE COURT: There are fifteen boxes, each of them
23 have the initials DAS in them other than box 11. Are those
24 your initials in each of those boxes?

25 THE DEFENDANT: Yes.

26 THE COURT: Before you signed this document and
27 initialed each of the boxes did you have a chance to talk to
28 your attorney about it?

1 THE DEFENDANT: Yes.

2 THE COURT: Now do you have any questions before I
3 finish here?

4 THE DEFENDANT: No, I've changed my mind. None at
5 all.

6 THE COURT: You had a question a minute ago?

7 THE DEFENDANT: Never mind.

8 THE COURT: All right. The Court finds that the
9 defendant has knowingly, intelligently, and voluntarily
10 waived his Constitutional rights. The Court further finds
11 that the defendant has freely entered into a conditional
12 plea of no contest with an understanding of the consequences
13 of the plea.

14 The Court finds that there's a factual basis for the
15 plea, and the Court orders that the defendant's conditional
16 plea of no contest is accepted.

17 I am going to order that you report to Department
18 108 on Monday for your plea and assessment. I am finding
19 you guilty of one count of Health and Safety Code 11350(a),
20 a felony. You are to report to Department 108 for an
21 assessment under Proposition 36.

22 You are sentenced to three years formal probation.
23 you are -- when is the DNA sample scheduled, what's the
24 compliance date on that?

25 MS. KENFIELD: He will upon the Court's making the
26 order before he is released from custody today they will
27 take the sample.

28 THE COURT: Okay. Do you understand that?

1 THE DEFENDANT: Uh-huh.

2 THE COURT: You are ordered to submit your DNA
3 sample today. You are subject to the four-way search clause
4 previously discussed on the record and you are also subject
5 to the restitution fund fines, court security fines and
6 probation/parole administrative fines previously discussed
7 on the record. I think that's it.

8 MS. KENFIELD: I believe that's correct.

9 THE COURT: Mr. Singleton, I do hope that you
10 successfully complete this probation.

11 Thank you everybody.

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1 STATE OF CALIFORNIA

2 COUNTY OF ALAMEDA

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4 I, DEANA RANGEL, Certified Shorthand Reporter,
5 do hereby certify that I am an Official Court Reporter of
6 the Wiley W. Manuel Courthouse of the State of California,
7 and that as such I reported the proceedings had in the
8 above-entitled matter at the time and place set forth
9 herein.

10

11 That my stenograph notes were thereafter transcribed into
12 typewriting; and that the foregoing pages constitute a full,
13 true, and correct transcription of my said notes.

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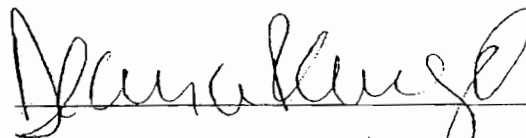
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DEANA K. RANGEL, CSR #11324

21 NOVEMBER 7, 2006

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